IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 23140 of 2004

Between:

G. Rama Murthy, S/o. G. Krishna Murthy,
Regional Stores, Tirupathi, Chittoor District.

..... PETITIONER

AND

1 The Deputy Chief Personnel Manager, APSRTC, Nellore, Nellore District.
2 The Executive Director, APSRTC, Nellore Zone, Nellore District.
3 The Regional Manager, APSRTC, Nellore, Nellore District.
4 S.K. I. Basha, S/o. and age Not Known,
Udayagiri Depot, APSRTC Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus calling for the records relating to the Office Order No.E2-813 (15)/2004-NZ, Dated. 25-10-2004 issued by the 2nd respondent and the Office Orders No. E2/813(10)/04-RM (N), dated. 17-11-2004 of the 3rd respondent and also the proceedings No. E2/255/(14)/2004-NZ, dated. 2-12-2004 of the first respondent and declare the same as illegal, arbitrary and contrary to the instructions of the Managing director issued Vide Circular No. PD-43/2004, dated. 17-11-2004 and also the orders of this Hon'ble Court in W.P.No. 21927/2004, dated. 30-11-2004 and further direct the respondents to continue the petitioner as Assistant Manager (Materials) Regional Stores, Tirupathi, Chittoor District.

Counsel for the Petitioner: MR.P.RAGHAVENDRA REDDY

Counsel for the Respondents: MR.R.MANMADHA REDDY
FOR R-1 TO R3

The Court at the stage of admission made the following:

ORDER:

This writ petition is filed seeking writ of mandamus calling for records relating to the office order No.E2-813(15)/2004-NZ, dated 25.10.2004 issued by the 2nd respondent and the office orders No.E2/813(10)/04-RM (N), dated 17.11.2004 of the 3rd respondent and also the proceedings No.E2/255(14)/2004-NZ, dated 02.12.2004 of the 1st respondent and declare the same as illegal, arbitrary and contrary to the instructions of the Managing Director.

The brief averments of the affidavit may be stated as follows:

The 3rd respondent vide its proceedings dated 17.11.2004, transferred the petitioner from the post of Assistant Manager (Material), Regional Stores, Tirupathi and posted him in the place of 4th respondent i.e., Deputy Superintendent in Udayagiri Depot, Nellore Regoin. According to the petitioner, there is no post of Assistant Manager (Materials). He was posted in the place of 4th respondent, who is working as Deputy Superintendent. The pay scale of Deputy Superintendent is lesser than the pay scale of the Assistant Manager, therefore, the pay scales of the Assistant Manager and Deputy Superintendent are different. The transfer of the petitioner is contrary to the circular instructions of the Vice Chairman and Managing Director, dated 17.11.2004. The petitioner by bringing all the facts to the notice of the 1st respondent made a representation dated 22.11.2004 requesting to cancel his transfer. But the 1st respondent has not taken any steps on his representation, dated 22.11.2004, he constrained to file W.P.No.21927 of 2004. This court vide its order, dated 30.11.2004 directed the respondents to pass appropriate orders on the representation of the petitioner. The respondents by its impugned proceedings, dated 02.12.2004, rejected the case of the petitioner. Hence, the present writ petition.

A detailed counter has been filed by the respondents stating that as there was a vacancy at Nellore Zone the petitioner was transferred to Nellore Zone on administrative grounds by proceedings, dated 25.10.2004, of the Executive

Director. In compliance of the Executive Director's order, the Regional Manager by consequential proceedings transferred the petitioner to Udayagiri by proceedings dated 17.11.2004. The petitioner was relieved on 30.11.2004 itself. The order passed by the respondent is only an administrative ground. The contention of the petitioner is that there was no post of the Assistant Manager at Udayagiri Depot is denied. It is further stated that the posts of Assistant Manager/Superintendent and Deputy Superintendent are supervisory posts, as such, they cannot compare the pay scales of the said posts. It is denied that there are vacancies at Alipiri and Tirupathi. The petitioner is not at loss, if he is transferred from Tirupathi to Nellore Zone and his pay is protected and more over the transfer of the petitioner is purely on administrative grounds and the petitioner being the Assistant Manager (Materials), which is the state wide post, he can be transferred anywhere in the State. Therefore, the writ petition is devoid of merits and accordingly the respondents prayed for dismissal of the writ petition.

Learned Counsel appearing for the petitioner raised two grounds to challenge the impugned proceedings. Firstly the impugned transfer orders have been issued contrary to the circular instructions, dated 17.11.2004; and secondly that there is no post of Assistant Manager at Udayagiri Depot. Therefore he prays to set aside the impugned proceedings.

On the other hand, the learned Standing Counsel appearing for the respondents contended that the transfer is purely on administrative exigencies and that the petitioner was posted as the Assistant Manager (Materials) at Udayagiri and his pay is not at all affected by such transfer, therefore, there are no grounds to interfere with the impugned proceedings.

There cannot be any dispute that the transfer is not only incidence of service, but also one of the service conditions. Unless the transfer order is made with malafide intention by the authority or by way of punishment or it was made contrary to any of the rules governing the service conditions, this Court will not interfere with the transfer orders. It is not a case of malafide action on the part of the respondents in effecting the transfer of the petitioner from Tirupathi zone to Nellore zone. Therefore, the transfer is not contrary to the rules governing the service conditions of the petitioner. It is also not a case of transfer by way of punishment. Though the petitioner specifically stated that no post of the

Assistant Manager (Materials) is available at Udayagiri Depot, the learned Counsel specifically brought to the notice of this Court the office order, dated 17.11.2004, whereunder the petitioner was transferred as Assistant Manager (Materials) at Udayagiri vice S.K.Ismail Basha, who is working as Deputy Superintendent at Udayagiri Depot. Though these proceedings indicate that the petitioner was transferred in the place of Deputy Superintendent (Material), at the same time the designation, pay and other service conditions have not been affected by such transfer. The contention of the petitioner that there is no post of the Assistant Manager at Udayagiri, is denied by the respondent Corporation. Therefore, the first contention that there is no post of Assistant Manager at Udayagiri Depot is devoid of merit and cannot be accepted. The next ground on which the petitioner challenges the impugned order is that the transfer is contrary to the Circular issued by the Chairman-cum-Managing Director in his proceedings, dated 17.04.2004, whereunder the respondent Corporation decided that no transfers shall be made on long standing basis before 1st March and 20th May of the year. However, such transferred employees can be relieved before 10th June of every year. The proceedings dated 17.11.2004 the only administrative instructions of the transferring authorities not to give effect to the proceedings before 1st March and 20th May. The said Circular does not confer any right on the petitioner, when the transfer is made purely on administrative exigencies. Therefore, the 2nd ground is also devoid of merit. Since the transfer of the petitioner is not vitiated by malafides or contrary to the rules or by way of punishment, the order under challenge cannot be quashed. The writ petition is devoid of merit and is liable to be dismissed. Interim stay granted earlier shall stand vacated.

Accordingly, the writ petition is dismissed without any order as to costs.

01.03.205

Note: Furnish C.C. in three days.

B/o

MRKR

To

1 The Deputy Chief Personnel Manager, APSRTC, Nellore, Nellore District.
2 The Executive Director, APSRTC, Nellore Zone, Nellore District.
3 The Regional Manager, APSRTC, Nellore, Nellore District.
4 Two C.Ds.

*Form-NIC-OGS/WP{**SPJS**}*